

REMARKS

Entry of this response and reconsideration of the above-referenced application are respectfully requested. Claims 1-3, 5-10 and 12-17 are pending in the application. Various double patenting rejections and rejections under 35 U.S.C. § 112 have been made. The rejections will be discussed in the order presented in the Office Action. In light of the discussion below, it is believed that all rejections have been overcome.

I. Double Patenting Rejections

Claims 1-3, 5-10 and 12-17 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over either claims 1-17 of U.S. Patent No. 6,043,094 or claims 1-11 of U.S. Patent No. 6,660,525. Applicants submit herein a terminal disclaimer to overcome this rejection. Withdrawal of the rejection of claims 1-3, 5-10 and 12-17 relating to double patenting is respectfully requested.

II. Rejections under 35 U.S.C. § 112, second paragraph

Claims 1-3, 5-10 and 12-17 stand rejected under 35 U.S.C. § 112, second paragraph. It is asserted that recitation of "a substantial portion of" in claim 1 and "at least a portion of" in claim 13 is relative terminology which renders the claims vague and indefinite.


The test for determining whether a claim meets the definiteness requirements is "whether those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Beachcombers, Intl., Inc. v. WildeWood Creative Prods.*, 31 U.S.P.Q.2d 1653,1656 (Fed. Cir. 1994), *citing Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081, 1088 (Fed. Cir. 1986). Referring to claim 1, one skilled in the art would understand what is claimed when the claim is read in light of the specification. For example, on page 37, lines 17-20, of the specification, the term "substantial portion" is defined as "greater than about 50%, more preferably greater than about 70%". As one skilled in the art would clearly understand what is claimed, the claims are not vague and indefinite.

Similarly, in light of the teaching in the specification, including the definition of "substantial portion", one skilled in the art would understand what "at least a portion of" refers to in claim 13. Withdrawal of the rejection of claims 1-3, 5-10 and 12-17 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

III. Conclusion

In view of the above remarks, applicants submit that claims 1-3, 5-10 and 12-17 are in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference would expedite the prosecution of the present application, the Examiner is encouraged to call the undersigned at (650) 838-4308.

Respectfully submitted,



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